

# *Welcome!*

Topic:

Maryland's  
Minority Business Enterprise  
(MBE)  
Contractors' and Subcontractors'  
Rights & Responsibilities

October 27, 2022



TECHNICAL  
**TRAINING**  
CLASSROOM

Webinar Series



**Maryland**

GOVERNOR'S OFFICE  
OF SMALL, MINORITY & WOMEN  
BUSINESS AFFAIRS

# MBE Prime Contractor and Subcontractor Rights and Responsibilities

October 27, 2022

# Socioeconomic Program Overview

## Small Business Reserve (SBR) Program

- Prime contracting program
- 15% set-aside
- Race and gender neutral
- State-defined small business eligibility standards apply
- Online certification process (eMMA)
- Annual renewal

## Minority Business Enterprise (MBE) Program

- Subcontracting program; may also perform as prime
- 29% aspirational goal
- Race and gender specific
- Application-based certification process through **MDOT**
- Annual review

## Veteran-Owned Small Business Enterprise (VSBE) Program

- Subcontracting program; may also perform as a prime
- 1% aspirational goal
- 3-Step certification process includes **verification** of veteran status
- Annual renewal

All Programs are mutually exclusive.

# Governor's Office of Small, Minority & Women Business Affairs

- Create **policies** aimed at connecting small and minority businesses to greater economic opportunities
- Oversee and monitor **compliance** for the State's three procurement Socioeconomic procurement programs across 70 state agencies/departments
- Conduct statewide **outreach** to small and Minority Business Enterprises
- Host **trainings** and provide online resources for small business growth and development
- **Advocate** on behalf of MBEs facing challenges on state procurements





# MBE Prime Contractor RIGHTS

You have rights too!

# **MBE prime contractors have the same rights as all other prime contractors.**

- ✓ **Are entitled to receive fair and equal treatment during the procurement process**
- ✓ **May request and receive information to help develop competitive bid or proposal through a Public Information Act (PIA) request**
- ✓ **May submit written questions to and receive a written response from State agency**
  - ✓ **May ask State agency how MBE goals were set**
  - ✓ **Minimum qualifications**

# MBE Prime Contractors **RIGHTS** (cont.)

- ✓ **During contract term:**
  - ✓ **May ask to add MBEs, but not at the expense of originally-named MBEs**
    - ✓ **MBE Utilization and Fair Solicitation Affidavit & Participation Schedule**
  - ✓ **May ask to remove MBEs, but must demonstrate good cause**
  - ✓ **Any additions, removals or other changes to original MBE participation commitments must be approved in writing by the State agency**

# **MBE Prime Contractors **RIGHTS** (cont.)**

- ✓ **For contracts awarded after June 9, 2014, an MBE prime contractor may self-perform up to 50% of the overall MBE contract goal and up to 100% of any one MBE contract subgoal, provided that the certified MBE prime contractor is properly identified on the MBE participation schedule and the firm is NAICS code-certified to do the work**
  - ✓ **Intended to help MBEs grow their capabilities and build capacity**



# *Overall MBE Goal vs. Subgoals*

✓ **Subgoals are the means by which we further diversify the firms that our Prime Contractors use to fulfill the Stated MBE Goal on a procurement.**

In 2011, the State became concerned that Prime Contractors would continue to use the same firms (or even worse, the most overrepresented firms in each industry category to fulfill the MBE requirements on a contract).

# Overall MBE Goal vs. Subgoals

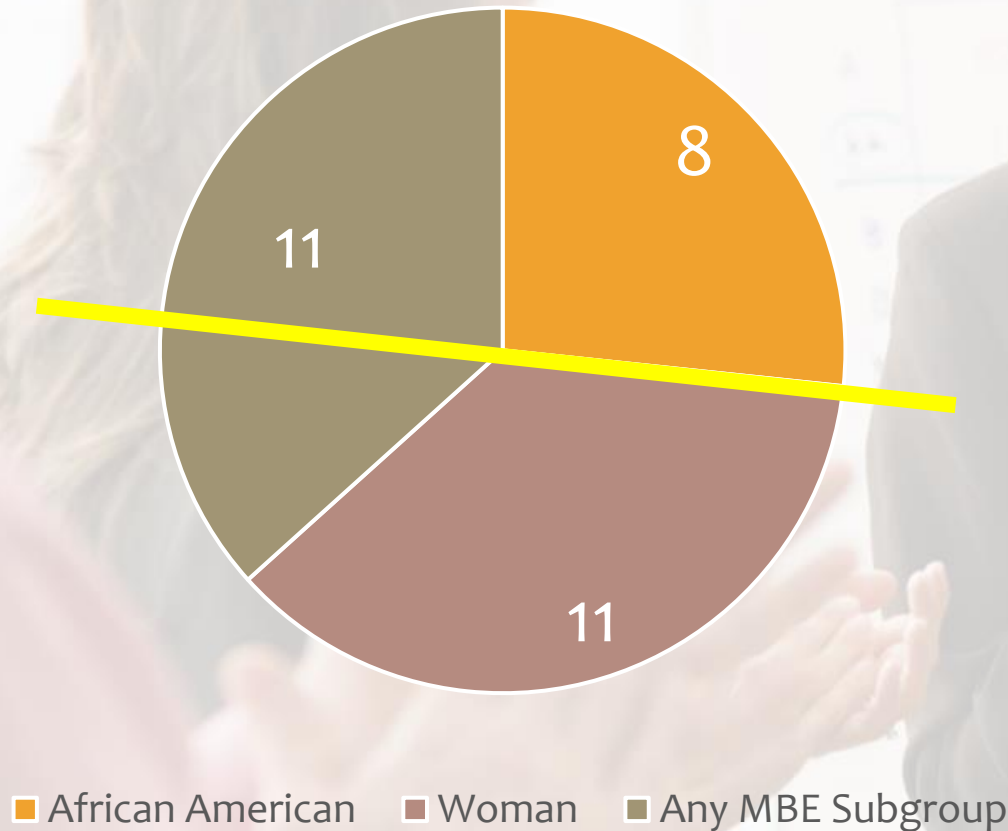
**TABLE 2 – RECOMMENDED SUBGOALS**

Combined Industry Category (Check appropriate column per Step 5.)			Cons	AE-CRS	Main	IT	Serv	CSE
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. # of Firms	10. ≥ 3 Y/N	Subgroups						
		African American	8%	7%	9%	10%	—	6%
		Hispanic American	—	—	3%	—	2%	2%
		Asian American	—	—	2%	—	3%	—
		Women	11%	10%	—	10%	10%	8%
<b>Subgoal Total</b>			19%	17%	14%	20%	15%	16%
<b>*Subgoal Total Plus 2% Margin</b>			21%	19%	16%	22%	17%	18%

**\*The Subgoal Total Plus 2% Margin is the sum of the Recommended Subgoals plus 2%.**

# Subgoals in Practice

Subgoals



**Douglas HS Construction - 30 %  
Overall MBE Goal & Subgoals**

**African-American Woman-Owned  
Prime Awarded**



## Recent Update:

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- There was a recent change in regulations (COMAR 21.11.03.12-1) which deals with Counting Minority Business Enterprise Participation.
- This allows the work of a certified woman-owned MBE, who is also a member of an ethnic group, to possibly be counted under both classifications on a contract.



# MBE Prime Contractor RESPONSIBILITIES

You have rights too!



# MBE Prime Contractor RESPONSIBILITIES

- ✓ Learn enough about the procurement process to compete effectively:
  - ☐ How does the process work?
  - ☐ Who are the decision makers?
  - ☐ What are they buying and when are they buying it?
  - ☐ Who is your competition?
  - ☐ What other information do you need to compete effectively?

Enter search term



GOVERNOR'S OFFICE OF  
Small, Minority &  
Women Business Affairs



Quick Links

- About Us
- FAQs
- Legislation and Policy
- Outreach



Attention SBR & VSBE  
Vendors

If you are experiencing problems with certification or recertification in eMMA, call us for assistance at 410-697-9600.

TOP WEBSITE PICKS

- NEW - 2022 Expanding Opportunities Magazine
- eMaryland Marketplace Advantage (eMMA)





GOVERNOR'S OFFICE OF

# Small, Minority & Women Business Affairs



## Business Resources

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Read the latest edition of our Small Biz Bulletin:  
**October 2022**

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Small businesses, including those owned and operated by minorities and women, have many resources available to assist and guide them with nearly every area of business from getting started, to specialized lending offers, to technical assistance with government procurements.

Explore the links below to help your business grow

## Our Top Picks

- [NEW - 2022 Expanding Opportunities Magazine](#)
- [Pathway to State Procurement](#)
- [Maryland Public Information Act](#)
- [Federal Contracting Resources](#)
- [SBA Learning Center](#)
- [Public Purchasing Fact Sheet](#)
- [Goods and Services Purchased by the State of Maryland](#)
- [3372 Marketing Plan](#)
- [7 Tips for Creating a Captivating Capability Statement](#)
- [Sample MBE Forms](#)

Enter search term



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## Quick Links



About Us

FAQs

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Outreach

News

Reports

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# Procurement Forecast Portal

Welcome to Maryland's Procurement Forecast Portal for Fiscal Year 2022.

This database is populated with projected purchases of \$100,000 and above for the current fiscal year. Not all projected purchases will be made as indicated in the Procurement Forecast.

We strongly advise you to connect with the buyer directly for details and updates.

To obtain the contact information of the buyer, download your search results by clicking on "EXPORT TO EXCEL" below.

Search - Description

Search

Export To Excel

Reset All Filters

Search by Agency



Search by Procurement Categories



Search by Region



Search by Contract Value



Search by Projected Advertisement Dates





A	B	C	F	I	J	K	L	M
Agency Name	Incumbent Name	Current MBE/DBE Participation Goal	Description	Estimated Total Contract Award (no options)	Term of Contra	PO Name	PO Phone	PO Email
Housing and Community Development	Dovenmuehle Mortgage, Inc.	15.00%	Single Family Bond Funded Mortgage Subservicing	\$5,000,001 to \$10,000,000	5 years or more	Paul Dickman	301-429-7566	paul.dickman@maryland.gov
Transportation - Office of the Secretary	Knott Technology, Inc.	0.00%	Gigamon Wan Software Maintenance FY 18-19	\$15,000 to \$99,000	1-2 years	Joe Palechek	410-865-1137	jpalechek@mdot.maryland.gov
Police	LB&B	30.00%	Crime Lab Building Maintenance	\$1,000,001 to \$5,000,000	5 years or more	DGS	DGS	DGS
Transportation - Port Administration	Marine Technologies, Inc.	0.00%	Seafender Removal	\$15,000 to \$99,000	3-4 years	Olu Fawehinmi	410-385-4568	ofawehinmi@marylandports.com
Stadium Authority	Malstrom Electric, Inc.	12.00%	On-Call General Electrical Services	\$500,001 to \$1,000,000	2-3 years	John Samoryk	410-223-4147	jsamoryk@mdstad.com
Comptroller	NEC Corporation of America	25.00%	PBX III	\$500,001 to \$1,000,000	5 years or more	Mike Balderson	410-260-6330	mbalderson@comp.state.md.us
University of Maryland, Baltimore		0.00%	Microscopes	\$10,000,001 to \$20,000,000	5 years or more	Kristal Burgess	410-706-0772	mailto:kburgess@umaryland.edu
Coppin State University			Resident Hall Bathroom Renovations	\$1,000,001 to \$5,000,000	Less than 1 year	Thomas Dawson	410-951-3792	thdawson@coppin.edu
Housing and Community Development	Dovenmuehle Mortgage, Inc.	15.00%	Single Family Bond Funded Mortgage Subservicing	\$5,000,001 to \$10,000,000	5 years or more	Paul Dickman	301-429-7566	paul.dickman@maryland.gov

# *Board of Public Works*



- ✓ **Governor, Comptroller and Treasurer**
- ✓ **Only board of its kind in the nation**
- ✓ **Meets bi-weekly on Wednesdays; meetings are live-streamed**
- ✓ **Agenda available on [bpw.maryland.gov](http://bpw.maryland.gov)**

# BPW Agenda- Identify Competition or Partners

## 1-C. MARYLAND AVIATION ADMINISTRATION *Construction Contract*

**Contract ID:** Installation of Gate-Electrification Equipment at Baltimore/Washington International Thurgood Marshall (BWI Thurgood Marshall) Airport; *MAA-CO-23-004*  
ADPICS No.: MAACO23004

**Contract Description:** Install gate-electrification equipment at BWI Thurgood Marshall Airport. The work includes the installation of new 400 Hertz (Hz) power and Pre-Conditioned Air (PC Air) units at four MDOT MAA owned loading bridges (Gate C2, Gate D7, Gate D21 and Gate D22) at BWI Thurgood Marshall Airport.

**Award(s):** Glenelg Construction, Inc.; Hanover, MD

**Contract Term:** 12/08/2022\* – 12/20/2024 (\*or earlier upon BPW Approval)  
(400 calendar days)

**Amount:** \$1,716,000

**Procurement Method:** Competitive Sealed Bidding

### **Bids:**

<i>Bidders</i>	<i>Amounts</i>
Glenelg Construction, Inc.; Hanover, MD	\$1,716,000
Towson Mechanical, Inc.; Parkville, MD	\$2,049,000

**DBE/VSBE Participation:** 15% / 0%

**Incumbent:** N/A

**Performance Security:** Payment & Performance Bonds

**Requesting Agency Remarks:** This solicitation was advertised on eMaryland Marketplace Advantage and the Maryland Department of Transportation Maryland Aviation Administration's (MDOT MAA) website. The MDOT MAA directly solicited 17 prospective bidders. Three bids were received; one bid was rejected. The bid was deemed non-responsive because it did not conform to all material respects (did not complete and sign the bid proposal forms) as required in the solicitation. Therefore, the bid was rejected. No protest was filed.

## ***MBE Prime Contractor***

# **RESPONSIBILITIES** (continued)

- **Make sure MBE commitments are clearly, completely and accurately stated on the MBE forms**
- **Use named MBE subcontractors as promised**
  - **NOTE: As of May 13, 2013, all contracts with MBE subcontracting requirements include an MBE liquidated damages clause.**
- **Comply with monthly MBE reporting requirements and ensure that MBE subcontractors do so as well**
- **Meet all deliverables on time**
- **Keep good records to document project progress and MBE subcontracting performance**





# ***MBE Subcontractor RIGHTS***

Protect your interest!



# ***MBE Subcontractor*** **RIGHTS**

- **The prime contractor must:**

- ✓ **Provide MBE subcontractors with enough time (10 days before the bid/proposal is due) and information to submit a qualified, competitive quote**
- ✓ **Provide MBE subcontractors with no less than the same information and amount of time to respond as any other potential subcontractor**
- ✓ **Obtain the MBEs authorization to list the MBE subcontractor on a bid or proposal**
- ✓ **Notify the MBE subcontractor before execution of the contract on which the firm has been listed as an MBE subcontractor**

# ***MBE Subcontractor*** **RIGHTS**

- **MBE subcontractors are entitled to:**
  - Receive prompt payment from the prime contractor for undisputed work completed successfully
  - Be treated fairly and without fear of harassment or intimidation
  - Contact the contract owner directly when appropriate (project manager, procurement officer, MBE Liaison)

**Maryland has a statute in place to protect MBEs against fraud. Notify the State if you have first-hand knowledge of fraudulent MBE-related activity.**

**Fraud Hotline: 410-697-9611.**

The background of the slide is a collage of three photographs. The top-left photo shows a white bookshelf filled with various books. The bottom-left photo shows a person's hands working on a laptop. The right-side photo shows a man and a woman in a professional setting, looking at documents on a table. The man is wearing a light pink shirt and a watch, and the woman is wearing a dark blazer over a grey top.

# *MBE Subcontractor* **RESPONSIBILITIES**

Do Your Part!

# ***MBE Subcontractor*** **RESPONSIBILITIES**

- Carefully review all forms and agreements before signing
  - ✓ Understand what prime and State are expecting
  - ✓ Keep copies of all documents
  - ✓ Never sign a blank form presented by a prime contractor; all documents should be completed before you sign
  - ✓ Keep good records/documentation
- Complete and submit monthly MBE payment forms and other required State submissions on time
- Deliver the goods and/or services as promised
- Get advance written confirmation of requests for additional work



# *MBE Subcontractor* **RESPONSIBILITIES**



MDOT's Office of Minority Business Enterprise (OMBE)  
is the State's official certification agency.

- ▶ Renew MBE certification annually
- ▶ Notify OMBE of any changes in your business status
- ▶ Request additional NAICS codes when you add additional products or services
- ▶ Review your listing in the online MBE directory to ensure accuracy



# *MBE Subcontractor* **RESPONSIBILITIES**

## ***Something went wrong! What now?***

- Document the problem **in writing** with as much detail as possible
- Promptly notify all parties who are in a position to take action on your behalf, including the State agency's MBE Liaison
- Other resources:
  - GOSBA
  - Commission on Civil Rights
  - MDOT Certification Unit
  - Fraud Hotline
  - Court System
  - Bonding Company
  - False Claims Act
- Be reasonably patient, but escalate if necessary

# Resources

MDOT's Office of Minority Business Enterprise (410-865-1269)

[www.mdot.maryland.gov](http://www.mdot.maryland.gov)

(Minority/Disadvantaged Business Enterprise)

Certification/certification renewal

NAICS code expansion of services

MBE online directory listing

# Resources

**Code of Maryland Regulations (COMAR)**

<http://www.dsd.state.md.us/COMAR/searchall.aspx#>

**MBE Program: Search 21.11.03**

**SBR Program: Search 21.11.01.06**

**VSBE Program: Search 21.11.14**

**Governor's Office of Small, Minority & Women Business Affairs (410-697-9600)**

[www.gomdsmbiz.maryland.gov](http://www.gomdsmbiz.maryland.gov)

**MBE Liaisons listing**

**Annual Report data for the MBE, VSBE & SBR Programs**

**Legislation and Policy**

A background image showing several hands of different skin tones reaching out towards the center, symbolizing unity and support. The hands are positioned at various heights and angles, creating a sense of movement and connection.

**— For Questions about this presentation, you may contact me directly:**

**Nichelle Johnson**

**410-697-9605**

**nichelle.johnson1@maryland.gov**

**Thank You**



# Upcoming Webinars and Workshops

## Technical Training Classroom Webinars

**Tuesday, November 15, 2022**

**10:00 am**

Creating A Compelling Capability Statement

**Thursday, November 17, 2022**

**10:00 am**

Maryland's Veteran-Owned Small Business Enterprise  
(VSBE) Program

Registration opens approximately 3 weeks in advance.



# Upcoming Webinars and Outreach Workshops

## **Veteran-Owned Small Business Appreciation Day (In-Person)**

Wednesday, November 9, 2022 @ 11 a.m. @ Live! Casino & Hotel

## **Small Biz Resource Connections: TEDCO – Leading Innovation to Market (Virtual)**

Friday, December 2, 2022 @ 10 a.m.

## **Ready, Set, GROW! Procurement Connections Workshop (Virtual)**

Tuesday, December 6, 2022 @ 10 a.m.



Registration opens approximately 3 weeks in advance.



# Building A Pipeline of Opportunities

[www.goMDsmallbiz.maryland.gov](http://www.goMDsmallbiz.maryland.gov)



## Mining Public Data Techniques

Videos & Slide Decks

[eMaryland Marketplace](#)  
[Advantage \(eMMA\)](#)

[Procurement Forecast](#)

[Board of Public Works](#)



# Resources & Partners

**Governor's Office of Small, Minority & Women  
Business Affairs**

<https://gomdsmallbiz.maryland.gov/Pages/default.aspx>

**Maryland's Office of Minority Business Enterprise  
(OMBE)**

<https://www.mdot.maryland.gov/tso/pages/Index.aspx?PageId=90>

**Maryland Department of Commerce  
Maryland Financial Incentives for Business**  
<https://commerce.knack.com/maryland-funding-incentives>

**Maryland Small Business Development Center  
(SBDC)**

<https://www.marylandsbdc.org/>

**Office of State Procurement**

<https://procurement.maryland.gov/business-community/>

**Maryland Procurement Technical Assistance  
Center (PTAC)**

<https://www.mdptac.org/>

**Greater Baltimore SCORE**

<https://greaterbaltimore.score.org/>

**Maryland Women's Business Center (MWBC)**

<https://marylandwbc.org/>

**Baltimore-Metro Women's Business Center  
(Balt-Metro WBC)**

<https://www.baltmetrowbc.org/>





To register to receive our and notices of all upcoming classes & workshops and monthly bulletin go to [www.goMDsmallbiz.maryland.gov](http://www.goMDsmallbiz.maryland.gov).

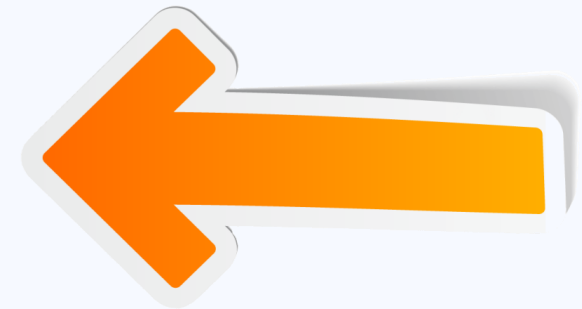


**-STAY CONNECTED-**

Sign up to receive news and notifications affecting the small business community.

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**Thank you!**

**for helping to keep**

**Maryland**  
**OPEN**  
**for**  
**Business!**



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